month following that in which the advance was drawn. Advances to temporary Government servants could be granted against a personal security of some permanent Government servant.

G. R. No. 6488/33, dated 3rd April 1947.

Income Tax (United Kingdom) :
Liability to — of officers intending to retire and take up permanent residence there.

Copies of the Memorandum* from the Government of India, Finance Department (Revenue Divsion), C. No. 26 (28) I.T./46, dated 13th February 1947, should be forwarded to the officers and Departments concerned for information and guidance in continuation of Government Endorsement, Finance Department, No. 9039-D of 7th May 1938.

G. E., F. D., No. 9039-D, dated 7th May 1938.

[Below copy of the Press Communique received with the endorsement No. C. No. 134-I-T/38, dated 6th April 1938, from the Government of India Finance Department, (Central Revenues).] Forwarded to all Departments of the Secretariat and Heads of offices, etc.

GOVERNMENT OF INDIA.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 6th April 1938.

PRESS COMMUNIQUE.

The following revised procedure has been prescribed by the Board of Inland Revenue in the United Kingdom for the assessment to British Income-tax of the emoluments of officers going to Great Britain or Northern Ireland on leave from India commencing with the Income-tax year 1936-37 :

Officers going to Great Britain or Northern Ireland on leave, who maintain a residence there or, if they do not maintain a residence, spend six months or more of the Income-Tax year in those countries, and officers going to either of those countries with the intention of taking up residence there are liable to assessment to British Income tax as persons residing in the United Kingdom.

It has been ruled that the India Office or the High Commissioner for India, as the case may be, is in law responsible for assessing and collecting tax on all payments made by either in respect of the year of charge, such payments including leave pay, overseas pay, remittances and allotments of pay and also arrears of pay issued in respect of that year, but not arrears of pay, etc., relating to previous years.

Advances drawn in the United Kingdom in respect of pay due after the date of embarkation on return to India will continue to be exempt from liability to British Income Tax.

In the case of officers taking up residence in Great Britain or Northern Ireland on retirement, or while on leave pending retirement, no liability to tax will arise in respect of payments made by the India Office or the

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*Not printed in the Digest.

High Commissioner for India prior to the date of arrival for the purpose of taking up residence in cases where a home has not previously been maintained in either of these countries.

As regards Provident Fund balances, no liability to United Kingdom tax will be claimed :—

(*a*) where the balance is paid in rupees in India, whether the proceeds are remitted to the United Kingdom or not, or

*(*b*) where the balance is paid in sterling, provided that, in the case where the sterling payment is made in the United Kingdom, it is effected through the Reserve Bank or the Imperial Bank of India or by means of a sterling bill sent by the Account Officer in India through an Exchange Bank in the United Kingdom.

The following notes are intended as a guide to the basis of assessment of remittances to the United Kingdom out of pay arising in India :—

(1) Officers visiting the United Kingdom while on leave or privilege leave or leave on average pay and becoming liable as residents in the United Kingdom for the year of visit—

(*a*) Where pay is issued in India in respect of the whole period of the visit (e.g. in the case of an officer visiting the United Kingdom while on privilege leave or leave on average pay on pay drawn in India), the liability for the year of visit is normally on the basis of the remittances made to or received in the United Kingdom in the preceding year.

Where, however, remittances out of Indian pay are first made to or received in the United Kingdom in the year of visit, or in the preceding year, other than on 6th April in that year, the liability for the year of visit is on the basis of the actual remittances of the year of visit.

(*b*) Where no pay is issued in India in respect of the Income-tax year in which the officer is chargeable as a resident or where pay is so issued in respect of a period commencing after 6th April in the said year, no liability will arise in respect of remittances out of pay earned in India prior to the year of visit.

(*c*) Where pay is issued in India in respect of part only of the Income-tax year of visit, i.e. where the full pay due becomes a charge on the funds of the India Office or the High Commissioner for India from 7th April or some later date in that year, the liability for that year in respect of remittances is on the remittances of the year of visit.

In none of the cases falling within (1) will be combined totals of the assessments on leave salary allotments (or overseas pay) and remittances out of pay arising in India exceed the full pay for the year of visit.

(2) Officers going to the United Kingdom on retirement or on leave pending retirement with the intention of taking up residence there, or for transfer to the Home establishment—

(*a*) Where the date of arrival in the United Kingdom is not within the period for which pay has been issued in India there will be no liability in respect of remittances.

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* As amended by G. of I. Corrigendum dated 3rd August 1938 : *vide* G.E., F.D., No. 9039/17866-D, dated 9th September 1938.

(*b*) Where the date of arrival in the United Kingdom is within the period for which pay has been issued in India and the date up to which such pay has been calculated is within the year of arrival, liability will arise in respect of all remittances out of pay made to the United Kingdom in the year of arrival whether they reach the United Kingdom before or after the date of arrival. The liability will be restricted, however, so as not to charge a sum greater than the proportion appropriate to the period from the date of arrival to the end of the year of arrival, of the pay arising in India in that year.

(*c*) Where the date of arrival in the United Kingdom is within the period for which pay has been issued in India but the date up to which such pay has been calculated is in the year following the year of arrival, the liability for the year of arrival, if there have been remittances out of pay in previous years, will normally be on the basis of the remittances reaching the United Kingdom in the year preceding the year of arrival, unless such remittances are less than the remittances reaching the United Kingdom in the year of arrival (whether before or after arrival) when the latter will form the basis of assessment. Where in such a case remittances have not been made in previous years, the assessment will in any case be based on the remittances of the year of arrival (whether reaching the United Kingdom before or after arrival). Moreover whether the "preceding" or the "current" year basis applies, the assessment will if necessary be restricted to the proportion appropriate to the period from the date of arrival to the end of the year of arrival of the full pay arising in India for the basic year. The liability for the year of assessment following the year of arrival is on the basis of the whole of the remittances arriving in the United Kingdom in the year of assessment but the assessment will be restricted if necessary to the full amount of pay arising in India in that year.

United Kingdom Income-tax.

Visitors from the Dominions and Foreign Countries.

The following is an outline of the position of visitors to the United Kingdom who are not domiciled there and who may incur liability to United Kingdom Income-tax* :—

(1) *Liability to tax on income arising in the United Kingdom.*—All income arising from sources within the United Kingdom (with the

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* *Note 1.*—A special arrangement with regard to Income-tax exists between the United Kingdom and the Irish Free State and this Memorandum, so far it deals with the extent of liability to United Kingdom Income-tax, must not be taken as applicable to persons resident or income arising in the Irish Free State.

exception of interest from certain* Government securities such as the 5 per cent. War Loan Stock, 1929-47, to which special privileges are attached) is chargeable to United Kingdom Income-tax.

(2) *Liability to tax on income arising abroad.*—No part of a visitor's income from sources outside the United Kingdom is subject to United Kingdom Income Tax unless he is chargeable as a person residing in the United Kingdom. The circumstances in which he may become so chargeable and the extent of his liability are indicated below.

(3) *What constitutes "residence".*—

(a) A visitor who maintains no place of abode in the United Kingdom and whose visits are not habitual but occasional only is not regarded as resident in the United Kingdom unless he has been in the United Kingdom for a period or periods equal in the whole to six months in the Income Tax year (beginning 6th April).

(b) If, however, he maintains a place of abode in the United Kingdom, available for his use, he is regarded as resident for any year in which he pays a visit, of whatever length, to the United Kingdom.

(c) Moreover, even though he does not maintain a place of abode in the United Kingdom available for his use, and does not stay for six months in any one year he is regarded as becoming resident if he visits the United Kingdom year after year (so that his visits become in effect part of his habit of life) and the annual visits are for a substantial period or periods of time. The question of residence in any particular case can only be determined by reference to the facts of the case. But it can be said that the Board of Inland Revenue would normally regard and average annual period or periods amounting to three months as "substantial" and the visits as having become "habitual" after 4 years. And, where the visitors arrangements indicated from the start that regular visits for substantial periods were to be made, he would be regarded as resident in and from the first year.

(4) *Extent of liability to tax on income arising abroad.*—A visitor who thus becomes chargeable as a resident is liable not on the whole of his income arising abroad but only on so much of that income as is received in or remitted to the United Kingdom.

In order to assist intending visitors in ascertaining their position the Board of Inland Revenue will be glad to express their opinion on the facts of any case being submitted to them by letter addressed to the Secretary, Board of Inland Revenue, Somerset House, London, W.C. 2. It should be added that a visitor who is charged to Income Tax in respect of his income arising abroad has the right of appeal to the Appeal Commissioners and, on a point of law, to the Courts, both on the question of residence and on the question of the amount of the Income Tax liability.

* *Note 2.*—The British Government securities to the interest on which the special privileges referred to are attached now include 3½ per cent. war loan (formed 5 per cent. war loan, 1929-47), 4 per cent. funding Loan and 4 per cent. Victory Bonds.